

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

LESLIE JOE DUNAWAY)
APPLN NO.: 10/532,439) GROUP ART UNIT: 1612
CONFIRMATION NO.: 9140)
FILED: APRIL 22, 2005) EXAMINER: SNIGDHA MAEWALL
TREATMENT OF ALLERGIC RHINITIS)
AND ASTHMA)

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

RULE 1.132 DECLARATION OF DR. LESLIE JOE DUNAWAY

I, Leslie Joe Dunaway, MD, hereby declare as follows:

1. I am a practicing physician. I have practiced medicine for over 25 years.
2. I have reviewed the cited reference of Arneric (US 2004/0235925), as well as the Final Office Action in the above-referenced application mailed on March 4, 2010.
3. In my opinion, a person of ordinary skill in the art to which this application pertains at the time of my invention of the subject matter of this application would have had the skills of a person who attained at least an MD degree and completed at least a 3 year residency in family practice or equivalent.
4. In my opinion, for all times relevant hereto, I was, and am, a person of at least ordinary skill in the art to which the present invention pertains.

5. In my opinion, the cited reference of Arneric would not have made the presently claimed invention apparent to such a person of ordinary skill in the art as of the filing date of this application. Such a person of ordinary skill in the art to which this invention pertains likewise would not have been motivated to attempt to employ a composition consisting essentially of atomoxetine, to treat mammalian asthma, and more particularly to treat the airway reactivity associated with asthma in a mammal, including humans.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully signed, this 3rd day of September, 2010.

Leslie Joseph Dunaway, M.D. By:

Leslie Joseph Dunaway, M.D.